IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE FOURTEENTH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE V.V.S.RAO

WRIT PETITION NOs.14809 of 2004 & 8427 of 2000

1. W.P.No.14809 of 2004

-

Between:

V. Komaraiah S/o Balaiah, 50 years, Technical Manager, MIG/IG, ECIL,
R/o H. No. 546-MIG.II, KPHP Colony, Hyderabad

...PETITIONER

AND

1. Electronic Corporation of India Limited, rep by its Chairman & Managing Director, Moula Ali, Hyderabad.
2. The Disciplinary Authority, Head Instruments & Systems Division, ECIL, Moula Ali, Hyderabad.

...RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ or order or direction more particularly one in the nature of Writ of Mandamus Charge Memo in proceedings No. ECIL: MID: 78009:066 dated 02-07-2004 and the consequential proceedings dated 3-8-2004 of the 2nd respondent as highly illegal, arbitrary and unjust and consequently set a side the same.

Counsel for the Petitioner: MR.D.V.NAGARJUNA BABU

Counsel for the Respondents: MR.D.SRINIVAS, SC FOR ECIL

(2) W.P.NO.8427 of 2000

Between:

V.Komaraiah, S/o.Balaiah, R/o.546, MIG-2, K.P.H.B.Colony, Hyderabad.

...PETITIONER

AND

1. The Collector and the District Magistrate, Warangal District, Warangal.
2. The Joint Collector, Warangal District, Warangal.

...RESPONDENT

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ or order or direction more particularly one in the nature of Writ of Mandamus declaring the proceedings of the 1st respondent in No.C5/D5/D2/8260/96 dated 23.04.2000 as highly illegal, arbitrary, unjust and contrary to the principles of natural justice and several decisions of the Hon'ble High Court and consequently set aside the same.

Counsel for the Petitioner: MR.D.V.NAGARJUNA BABU

Counsel for the Respondent Nos.1 & 2: GP FOR SOCIAL WELFARE

The Court made the following:

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

-

THE HON'BLE MR JUSTICE V.V.S.RAO

WRIT PETITION NOs.14809 of 2004 & 8427 of 2000

-

COMMON ORDER:

These two Writ Petitions involve commonality and therefore, it is expedient to dispose of both the Writ Petitions by a common order. The petitioner in both the matters is the same. He was appointed as a Technical Officer in Electronic Corporation of India Limited (ECIL) in the year 1979 in one of the posts reserved for Schedule Castes. At the time of recruitment, the petitioner produced the social status certificate, dated 24.06.1971 issued by the then Tahsildar, Mahabubabad, Warangal showing him as belonging to 'Madiga'.

The Deputy General Manager of ECIL by a letter, dated 11.12.1996 requested the District Collector, Warangal to verify the genuineness of the Caste Certificate issued to the petitioner. Therefore, the first respondent herein directed the Mandal Revenue Officer (MRO), Narsimalpet Mandal to enquire into the matter and submit a report. The MRO submitted a report, dated 03.04.1998 after conducting local enquiry, opining that the petitioner does not belong to 'Madiga' Caste, but he belongs to 'Yadava' Caste, which is a Backward Class Community. Basing on that report, the District Collector initiated enquiry under the provisions of Section 5 of the Andhra Pradesh (Schedule Castes, Schedule Tribes and Backward Classes) Regulation of Issue of Community Certificates Act, 1993 ('the Act' for brevity) and the Andhra Pradesh (Schedule Castes, Schedule Tribes and Backward Classes) Regulation of Issue of Community Certificates Rules, 1997 ('the Rules' for brevity) and referred the matter to the District Scrutiny Committee. The District Scrutiny Committee enquired into the matter and submitted a report in which the petitioner allegedly furnished the affidavits of three persons. Therefore, after conducting enquiry (which is disputed by the petitioner), the District Scrutiny Committee recorded its minutes on 11.09.1998

concluding that the petitioner does not belong to 'Madiga' but belongs to 'Yadava' (Golla). Accordingly purporting to exercise power under Section 5(1) of the Act, the District Collector by proceedings dated 23.03.2000, declared the petitioner as belonging to 'Yadava' and directed him to surrender the original certificate issued to him. Assailing the same, the petitioner filed Writ Petition being W.P.No.8427 of 2000. Curiously, though the District Collector initiated enquiry pursuant to a communication received from the Deputy General Manager, ECIL, ECIL is not arrayed as party respondent to the said Writ Petition. Be that as it is, this Court while admitting the Writ Petition on 09.05.2000 passed interim orders in W.P.M.P.No.10954 of 2000 suspending the proceedings of the District Collector, dated 23.04.2000. The respondents have filed counter-affidavit opposing the Writ Petition and justifying the impugned order.

Initially the interim order was passed by this Court to be effective upto 23.06.2000. Subsequently, by order dated 04.08.2000, this Court modified the order in W.P.M.P.No.17569 of 2000 observing that if the respondents have not acted upon the impugned order, after 23.06.2000 till date, they may not act. It appears the interim order of this Court was not brought to the notice of this Court by the ECIL. Therefore, the ECIL initiated disciplinary action against the petitioner and issued a charge sheet dated 02.07.2004 framing a charge that the petitioner has committed misconduct in terms of Rules 5(i) & (iv) of the Conduct, Discipline & Appeal Rules of the Company. The petitioner was asked to submit explanation within 76 days from the date of receipt of the said charge sheet. Assailing the said charge sheet, the petitioner filed the second Writ Petition being W.P.No.14809 of 2004 *inter alia* contending that in view of the orders of this Court passed in W.P.No.8427 of 2000, the respondent could not have initiated disciplinary action and could not have issued charge sheet to the petitioner. This matter was initially listed before this Court on 26.08.2004. This Court directed the matter to be posted along with W.P.No.8427 of 2000. Subsequently, as ordered by Honourable the Chief Justice, these two matters are coming up before this Court.

Sri D.V.Nagarjuna Babu, learned counsel for the petitioner attacks the proceedings of the District Collector cancelling the Caste Certificate on the ground that the same is in violation of mandatory requirement of Rule 9 of the Rules. He also alleges that the District Scrutiny Committee did not conduct any enquiry as contemplated under Rule 9 of the Rules and that the petitioner was not issued any notice whatsoever by the District Scrutiny Committee or by the District Collector before passing orders under Section 5(1) of the Act. These are refuted by the learned Government Pleader for Social Welfare as well as the learned standing counsel for ECIL.

A perusal of the impugned order would show that the District Scrutiny Committee issued a notice in Form No.VI on 24.06.1998, 11.12.1998, 17.01.2000 and 13.03.2000. These notices were duly served. On the date of enquiry as informed in the notice for one reason or the other, the petitioner either was not present or asked for further time to engage a counsel or to produce necessary material. The impugned order also shows that the petitioner filed three affidavits which were neither sworn nor attested by Gandanaboina Ilaiah, Vasireddy Narsimha Reddy and Polampalli Narsimha Murthy. Therefore, based on the report of MRO, dated 03.04.1998, the

District Scrutiny Committee recorded its minutes on 11.09.1998 duly based on the recommendations, based on which the impugned order was passed by the District Collector. Therefore, I do not find any procedural irregularities. I may however hasten to add that having regard to the subject matter of the Writ Petition namely, the issue regarding the social status of the petitioner and also having regard to the fact that adjudication of the issue requires adducing evidence by the petitioner on whom the burden lies, I am not inclined to adjudicate the issue at this stage. Indeed under sub section (2) of Section 7 of the Act, any person aggrieved by the orders passed by the District Collector under Section 5 of the Act is given an effective remedy by way of appeal to the Government within 30 days from the date of the publication of the order in the Andhra Pradesh Gazette. The petitioner challenges the proceedings of the District Collector, dated 23.04.2000 before the same could be notified. Therefore, the petitioner can still avail the remedy under Section 7(2) of the Act.

I also do not find any impropriety on the part of the ECIL in issuing the charge sheet impugned in W.P.No.14809 of 2004. Admittedly the petitioner kept ECIL in dark regarding the filing of W.P.No.8427 of 2000. Therefore, the petitioner cannot have any grievance if the ECIL proceeds in accordance with Conduct, Discipline & Appeal Rules of the Company for alleged fraudulent and dishonest procurement of the job by the petitioner. However, having regard to the provisions of Section 21 of the Act as well as Rule 19 of the Rules, pending enquiry into the genuineness of Caste Certificate produced by the petitioner, he is entitled to be continued in the job till the matter is finally decided by the District Collector or appellate authority entrusted with the duty to verify the genuineness of Caste Certificate. It would therefore be proper to keep the enquiry in abeyance for the period during which the Government may consider and pass orders in the appeal under Section 7(2) of the Act.

In the result, both the Writ Petitions are disposed of in the following manner.

i. The petitioner is given liberty to file appeal before the Government of A.P., within a period of one week from the date of receipt of a copy of this order;

ii. As and when such appeal is filed, having regard to the fact that the order of the District Collector has not been published in Andhra Pradesh Gazette, the Government may entertain the appeal and pass appropriate orders giving opportunity to the petitioner. It shall be open to the petitioner to obtain necessary documents from the Government and to raise all grounds;

iii. The Government is directed to dispose of the appeal within four weeks from the date of presentation of the appeal; and

iv. ECIL, the sole respondent in W.P.No.14809 of 2004 may keep the enquiry in abeyance for a period of eight weeks. Liberty is given to the petitioner as well as the ECIL to seek further clarification from this

Court, if need arises; and

v. There shall be no order as to costs.

-

-

-

_____

(V.V.S.RAO, J)

14th September 2004

RRB

ASSISTANT REGISTRAR

//True Copy//

SECTION OFFICER

Copy To:

1. The Chairman & Managing Director, Electronic Corporation of India Limited, Moula Ali, Hyderabad.

2. The Disciplinary Authority, Head Instruments & Systems

Division, ECIL, Moula Ali, Hyderabad.

3. The Collector and the District Magistrate, Warangal District, Warangal.

4. The Joint Collector, Warangal District, Warangal.

5. Two CCs to G.P. for Social Welfare, High Court Buildings, Hyderabad (OUT).

6. Two CD copies.